

# PDC Interpretation

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STATUS:	New June 28, 2012 Revised xxx, 2019	SUPERSEDES:	12-01
		APPROVED BY:	The Commission
REFERENCES:	<a href="#">RCW 42.17A</a> <a href="#">RCW 42.17A.005</a> <a href="#">RCW 42.17A.125</a> <a href="#">RCW 42.17A.235</a> <a href="#">RCW 42.17A.240</a> <a href="#">RCW 42.17A.405</a> <a href="#">RCW 42.17A.410</a> <a href="#">RCW 42.17A.420</a> <a href="#">RCW 42.17A.445</a> <a href="#">RCW 42.17A.560</a>	<a href="#">Title 390 WAC</a> <a href="#">WAC 390-05-210</a> <a href="#">WAC 390-05-235</a> <a href="#">WAC 390-05-245</a> <a href="#">WAC 390-05-400</a> <a href="#">WAC 390-16-041</a> <a href="#">WAC 390-16-042</a> <a href="#">WAC 390-16-207</a> <a href="#">WAC 390-16-242</a> <a href="#">WAC 390-16-245</a> <a href="#">WAC 390-37-300</a>	

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## DISTINGUISHING IN-KIND LOANS, DEBT, AND PLEDGES

The purpose of this interpretation is to distinguish the difference between an “in-kind loan” and a “debt.” “Pledges” are also addressed. Contribution limits apply to in-kind loans, but not debts because an in-kind loan is an in-kind contribution for which the contributor has asked to be repaid. While the value of an in-kind loan is “owed” to the contributor, based on the terms of the loan agreement, it is not considered a “debt,” which is incurred when the campaign purchases goods or services from a vendor who is selling goods or services in the normal course of business.

### Debt

The term “expenditure” includes a promise to pay for a good or service. [RCW 42.17A.005 \(20\)](#). A campaign that incurs a debt is reportable as an expenditure. Campaign debt must be timely and accurately disclosed on a C-4 report, Schedule B. [RCW 42.17A.240\(8\)](#); [WAC 390-05-245](#). Instructions for reporting debt are provided under [WAC 390-16-042](#).

A debt is incurred when:

- (1) The candidate, campaign treasurer, campaign official, or campaign agent or principal decision maker, or campaign volunteer authorized by any of the above, places an order for goods or services, or otherwise obligates itself to a vendor;
- (2) The vendor is in the business of selling the goods or services provided to the campaign; and
- (3) The vendor makes those services available to the campaign in its usual course of business.

Campaign debts are not considered contributions and are not subject to contribution limits. *However*, campaign debts that are forgiven by the vendor become contributions from the vendor and are subject to contribution limits. If the vendor gives the campaign preferential treatment, such as extending favorable credit for the repayment of the amount owed, so long as payment is still expected within a reasonable and definite time period, the underlying expenditure will continue to be reportable as a debt until repaid, but the value of the credit extension must be reported as an in-kind contribution.

### **In-Kind (Non-Monetary) Contributions & Loans**

The term “contribution” is defined broadly and includes not only monetary contributions, but also in-kind contributions which involve goods and services being contributed or loaned by a person to assist a campaign or a political committee. See [RCW 42.17A.005\(16\)](#) and [WAC 390-05-210](#).

In-kind contributions include but are not limited to donated items such as campaign office space, computers, auction items, and services such as printing, campaign consulting, and website development. The contributor may or may not be the person ultimately providing the goods or services. For example, an in-kind contribution may include paying a vendor on behalf of the campaign for goods or services. A business owner also may contribute employee services to assist a campaign during work hours, which would be reportable as an in-kind contribution.

The dollar value for in-kind contributions is based on the “fair market value” of each item or service donated to the campaign. See [WAC 390-05-235](#) and [390-16-207](#). In-kind contributions are subject to contribution limits and counted against any other contributions made. A candidate whose name appears on both the primary and general election ballots is prohibited from receiving general election in-kind contributions prior to the primary election being held. A general election in-kind contribution may not be received and used for the primary election if to do so would cause the contributor to exceed the primary election contribution limit. [WAC 390-17-300](#).

An in-kind loan occurs when a person procures goods or services on behalf of the campaign with the expectation of reimbursement at a later date. The loan must be recorded in writing and executed at the time the loan is made in order to qualify for repayment by the campaign, and the loan documentation must be maintained as part of the campaign's books of account. [See PDC Interpretation No.14-01.](#)

The campaign must timely and accurately report both the in-kind contribution and the in-kind loan on a C-4 report, Schedules B and L, respectively, including the disclosure of all required information about the contributor. The in-kind loan must be reported on the Schedule L until it has been repaid. Once the loan is repaid, it is no longer treated as a contribution and does not count against the contribution limits. However, if the loan is forgiven, it continues to be reportable as a contribution.

A candidate's out-of-pocket expenditures are treated as in-kind contributions if the campaign does not repay the candidate within twenty-one days of the expenditure. The candidate may qualify for repayment *after* the twenty-one day period as an in-kind loan only if the candidate had executed a loan agreement before the period expired. Repayment of in-kind loans made by the candidate, when combined with other loans repaid to the candidate, may not exceed \$6,000 per election. [RCW 42.17A.445](#); [WAC 390-05-400](#) and [390-16-226](#).<sup>1</sup>

**Comparative Examples:**

<i>Candidate X is an employee of a public relations firm and is seeking to produce a campaign flyer.</i>		
<b><i>In-kind contribution</i></b>	<b><i>In-kind loan</i></b>	<b><i>Debt</i></b>
<i>Candidate X asks the firm's graphic artist to design a campaign logo. The firm donates the graphic artist's time to the campaign. No payment is expected.</i>	<i>The firm permits Candidate X to use the office copy machine for the candidate's campaign, with the expectation that Candidate X will reimburse the firm for the cost of the paper, or per-use copy fee. The firm does not ordinarily provide copy services for its customers.</i>  <i>NOTE: If the firm had previously made a</i>	<i>Candidate X enters into the firm's standard contract to pay for the firm's graphic artist's services and is not treated differently from any other client.</i>  <i>NOTE: If the firm provides preferential payment terms not ordinarily granted to other customers, such as extended repayment period, then the value of such preference is</i>

<sup>1</sup> At the beginning of even-numbered years, the Commission adjusts the candidate loan repayment limit in accordance with [RCW 42.17A.125](#). See [WAC 390-05-400](#).

	<i>contribution to the candidate, and the loan amount would exceed the contribution limit, then the campaign must repay the firm promptly and report the payment as an expenditure.</i>	<i>reportable as a contribution.</i>
<b>Reporting:</b>		
<i>C-4, Schedule B, reported at the end of the period in which the staff time was donated.</i>	<i>C-4, Schedules B (part 1) &amp; L, reported at the end of the period in which the time was donated and on subsequent Schedules L until reimbursed.</i>	<i>C-4, Schedule B (part 3), reported at the end of the period in which the contract was signed and on subsequent Schedules B until paid.</i>

## **PLEDGES**

A pledge is a promise from a contributor to make a future contribution to the campaign. A pledge may be written or verbal and for monetary and/or in-kind contributions. To be considered a pledge for purposes of reporting requirements and contribution limits, the promise must be for a specific amount if a monetary pledge or for specific goods or services if an in-kind pledge and the contributor must intend to pay the pledged amount in its entirety. A pledge is a form of contribution and thus subject to contribution limits. [RCW 42.17A.005\(16\)](#). The pledged amount, when combined with other contributions from a contributor, may not exceed the contribution's limit.

Once received, a pledge must be timely and accurately disclosed as a contribution on a C-4 report, Schedule B. [RCW 42.17A.240](#); [WAC 390-16-041](#). Once a pledge has been redeemed it is no longer disclosed on the C-4 report. As pledges are redeemed, the payments or goods and services received are disclosed as contributions on the appropriate reports.

A candidate subject to contribution limits may not redeem a primary election pledge after the date of the primary *unless* the candidate loses the primary election and has outstanding debts, loans, or orders placed to retire. A candidate who loses the primary election and has outstanding debts or liabilities may redeem a primary election pledge up to 30 days after the primary election is held. A general election pledge must be redeemed no later than December 31 of the election year. [RCW 42.17A.405](#) and [42.17A.410](#); [WAC 390-16-245](#).

A state official or a person employed by or acting on behalf of a state official may not accept a pledge or payment of a pledge during a session freeze period. [RCW 42.17A.560](#) and [WAC 390-16-245](#).

Unless the recipient is a ballot measure committee, a pledge may not be made or redeemed within twenty-one days of an election if the amount of the pledge or redemption exceeds the maximum amount provided in [RCW 42.17A.420](#).<sup>2</sup> However, when payment of a pledge is made and the monetary or in-kind contribution is in possession of the recipient twenty-two or more days before the election, the contribution may be accepted. [WAC 390-16-245](#).

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<sup>2</sup> See *footnote one*. Also see [RCW 42.17A.405](#) and [42.17A.410](#) and [WAC 390-05-400](#) for candidate contribution limits.